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SENATE BILL 557

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Carroll H. Leavell

AN ACT

RELATING TO INSURANCE; AMENDING AND REPEALING SECTIONS OF THE  
NEW MEXICO INSURANCE CODE TO PROVIDE FOR LICENSURE PROCEDURES  
AND TECHNICAL CLEANUP.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 29-13-3 NMSA 1978 (being Laws 1983,  
Chapter 289, Section 3, as amended) is amended to read:

"29-13-3. DISTRIBUTION OF CERTAIN INSURANCE DEPARTMENT  
COLLECTIONS--LAW ENFORCEMENT PROTECTION FUND CREATED.--There is  
created in the state treasury the "law enforcement protection  
fund". Ten percent of all money received for fees, licenses,  
penalties and taxes from life, general casualty and title  
insurance business pursuant to the New Mexico Insurance Code  
shall be paid [~~daily~~] monthly to the state treasurer and by him  
credited to the fund. On or before June 30 of each year, the

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1 state treasurer shall transfer to the general fund any balance  
2 in the law enforcement protection fund in excess of one hundred  
3 thousand dollars (\$100,000) that is not obligated and that is  
4 in excess of the amount certified by the division to be  
5 distributed from that fund. "

6 Section 2. Section 59A-5-19 NMSA 1978 (being Laws 1984,  
7 Chapter 127, Section 86, as amended) is amended to read:

8 "59A-5-19. SPECIAL DEPOSIT OR BOND. --

9 A. To qualify for and continue to hold a  
10 certificate of authority to transact insurance in this state,  
11 the insurer shall also make a special deposit in trust for the  
12 benefit only of all its policyholders and creditors in this  
13 state in applicable amount as shown in Schedule I of Section  
14 59A-5-16 NMSA 1978. The deposit shall consist of assets  
15 eligible therefor under Section 59A-10-3 NMSA 1978 and shall be  
16 deposited with or through the superintendent or in a commercial  
17 depository located in the state of New Mexico approved by the  
18 superintendent subject to rules and regulations issued by the  
19 superintendent.

20 B. In lieu of such deposit, the insurer may file  
21 with the state treasurer of New Mexico through the  
22 superintendent a surety bond issued by a surety insurer  
23 authorized to transact such insurance in this state, in penal  
24 sum not less than the aggregate special deposits required by  
25 this section. The bond shall be in such form as may be

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1 prescribed by the attorney general of New Mexico. The bond  
2 shall not be subject to cancellation except upon not less than  
3 sixty days advance written notice to the superintendent by the  
4 insurer or surety; and the insurer shall promptly replace, not  
5 later than fifteen days prior to expiration of the bond, with  
6 another like bond, any bond so ~~cancelled~~ canceled or  
7 otherwise terminated. The bond shall expressly provide that  
8 failure of the insurance company to replace a ~~cancelled~~  
9 canceled or terminated bond as provided ~~herein~~ in this  
10 section shall constitute a breach of the condition upon which  
11 the bond is given, upon which occurrence the superintendent may  
12 immediately recover from the surety the penal sum of the bond  
13 to be held as a special deposit in the manner described in  
14 Subsection A of this section.

15 C. The special deposit, or bond in lieu thereof,  
16 shall remain on deposit or on file and in force for so long as  
17 there may arise in this state any claim under any policy issued  
18 by the insurer covering a subject located or a service to be  
19 performed in this state or claim arising out of the insurer's  
20 operations in this state.

21 ~~[D. For reasons stated in Subsection B of Section~~  
22 ~~59A-5-18 NMSA 1978, the superintendent may also require an~~  
23 ~~insurer to increase its special deposit, or bond in lieu~~  
24 ~~thereof, by an amount not in excess of one hundred percent of~~  
25 ~~the special deposit otherwise required of the insurer under~~

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1 ~~Schedule I of Section 59A-5-16 NMSA 1978.~~]

2 D. Whenever because of volume of business being  
3 transacted by the insurer, methods of doing business,  
4 regulatory practices of the domiciliary state or for other good  
5 cause the superintendent deems advisable for protection of  
6 policyholders and creditors, the superintendent may require an  
7 insurer to make and maintain a special deposit in reasonable  
8 amount greater than required under Schedule I of Section  
9 59A-5-16 NMSA 1978, but no greater than one hundred fifteen  
10 percent of its direct unpaid losses in New Mexico.

11 E. The special deposit shall be subject to the  
12 applicable provisions of Chapter 59A, Article 10 NMSA 1978.

13 F. This section shall not apply as to domestic  
14 Lloyds plan automobile insurers as identified in Chapter 59A,  
15 Article 38 NMSA 1978. "

16 Section 3. Section 59A-10-3 NMSA 1978 (being Laws 1984,  
17 Chapter 127, Section 163, as amended) is amended to read:

18 "59A-10-3. SECURITIES ELIGIBLE FOR DEPOSIT. --

19 A. All general deposits required under Section  
20 59A-5-18 NMSA 1978 and special deposits required under Section  
21 59A-5-19 NMSA 1978, in the minimum amount specified therefor,  
22 shall consist of public obligations of the type eligible for  
23 investment of funds of domestic insurers under Section 59A-9-6  
24 NMSA 1978 [~~together with certificates of deposit in solvent~~  
25 ~~state and national banks or trust companies located in New~~

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1 ~~Mexico~~].

2 B. All additional general or special deposits  
3 required by the superintendent under Section 59A-5-18 or  
4 59A-5-19 NMSA 1978 shall consist of:

5 (1) public obligations [~~and certificates of~~  
6 ~~deposit~~] as referred to in Subsection A of this section;

7 (2) corporate obligations of the kind in which  
8 a domestic insurer may invest funds pursuant to Section 59A-9-8  
9 NMSA 1978, if the security has such rating and additional  
10 qualifications as the superintendent may from time to time by  
11 rule or regulation reasonably prescribe for deposit purposes;  
12 and

13 (3) notes or bonds secured by mortgages  
14 insured and debentures issued by the federal housing  
15 administrator and obligations of national mortgage  
16 associations.

17 C. Evidences of indebtedness secured by real  
18 property shall be eligible for deposit only if the real  
19 property securing the indebtedness is situated in New Mexico.

20 D. Notwithstanding any other provision of law, the  
21 securities qualified for deposit under Chapter 59A, Article 10  
22 NMSA 1978 by domestic insurance companies may be deposited with  
23 a clearing corporation or held in the federal reserve book-  
24 entry system. Securities deposited with a clearing corporation  
25 or held in the federal reserve book-entry system and used to

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1 meet the deposit requirements set forth in this article shall  
2 be under the control of the superintendent and shall not be  
3 withdrawn by the insurance company without the approval of the  
4 superintendent. Any insurance company holding securities in  
5 such manner shall provide to the superintendent evidence issued  
6 by its custodian or member bank through which such insurance  
7 company has deposited such securities in a clearing corporation  
8 or through which such securities are held in the federal  
9 reserve book-entry system, respectively, in order to establish  
10 that the securities are actually recorded in an account in the  
11 name of the custodian or other direct participant or member  
12 bank and that the records of the custodian, other participant  
13 or member bank reflect that such securities are held subject to  
14 the order of the superintendent.

15 E. Notwithstanding any other provision of law,  
16 securities eligible for deposit under the insurance laws of  
17 this state relating to deposit of securities by a foreign  
18 insurance company as a condition of commencing or continuing to  
19 do an insurance business in this state may be deposited with a  
20 clearing corporation or held in the federal reserve book-entry  
21 system. Securities deposited with a clearing corporation or  
22 held in the federal reserve book-entry system and used to meet  
23 the deposit requirements under the insurance laws of this state  
24 shall be under the control of the superintendent and shall not  
25 be withdrawn by the insurance company without the approval of

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1 the superintendent. Any insurance company holding such  
2 securities in such manner shall provide to the superintendent  
3 evidence issued by its custodian or a member bank through which  
4 such insurance company has deposited securities with a clearing  
5 corporation or held in the federal reserve book-entry system,  
6 respectively, in order to establish that the securities are  
7 actually recorded in an account in the name of the custodian or  
8 other direct participant or member bank and evidence that the  
9 records of the custodian, other participant or member bank  
10 reflect that such securities are held subject to the order of  
11 the superintendent.

12 F. Deposits of a domestic insurer held in this  
13 state pursuant to the laws of another state, province or  
14 country (other than the general deposit provided for by Section  
15 59A-5-18 NMSA 1978) shall consist of such assets as are  
16 required or permitted by the laws of such state, province or  
17 country.

18 G. Deposits of foreign insurers made in this state  
19 under Section 59A-5-33 NMSA 1978 shall consist of such assets  
20 as are required by the superintendent pursuant to such law."

21 Section 4. Section 59A-11-2 NMSA 1978 (being Laws 1984,  
22 Chapter 127, Section 181, as amended) is amended to read:

23 "59A-11-2. APPLICATION FOR LICENSE--INDIVIDUAL.--

24 A. Where a license is required under the Insurance  
25 Code for categories referred to in Section 59A-11-1 NMSA 1978,

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1 application by an individual shall be filed with, and on a form  
2 prescribed [~~and furnished~~] by, the superintendent. The  
3 application shall be signed by the applicant, under oath if  
4 required by the form [~~and by or on behalf of the proposed~~  
5 ~~principal where expressly required in the form~~].

6 B. The application form may require information  
7 about the applicant as to:

- 8 (1) name, date of birth, social security  
9 number, residence and business address, if applicable;
- 10 (2) personal history, business experience in  
11 general;
- 12 (3) experience or special training or  
13 education in the kind of business to be transacted under the  
14 license applied for;
- 15 (4) previous licensing;
- 16 (5) type of license applied for and kinds of  
17 insurance or transactions to be covered thereby;
- 18 (6) proof of applicant's identity; and
- 19 (7) such other pertinent information and  
20 matters as the superintendent may reasonably require.

21 [~~C. Application for license as insurance agent~~  
22 ~~shall be accompanied by appointment of the applicant as agent~~  
23 ~~by at least one insurer, conditioned upon issuance of the~~  
24 ~~license. Application for license as insurance solicitor or as~~  
25 ~~agent or solicitor as to dental and health care plan, motor~~

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1 ~~club, bail bondsman and other principals shall be accompanied~~  
2 ~~by appointment of the applicant by the proposed principal as~~  
3 ~~solicitor or agent, as the case may be, subject to issuance of~~  
4 ~~the license applied for.~~

5 ~~D. In all such appointments the principal or~~  
6 ~~principal's representative, if so required by the~~  
7 ~~superintendent, shall certify in writing as to his knowledge of~~  
8 ~~the applicant, as to the applicant's residence, experience had~~  
9 ~~or special training received or to be given as to business to~~  
10 ~~be transacted under the license, the applicant's business and~~  
11 ~~personal reputation, whether the applicant is trustworthy and~~  
12 ~~worthy of licensing, and whether satisfied that the applicant~~  
13 ~~intends in good faith to engage in the business to be covered~~  
14 ~~by the license, and appointment of the applicant is not to~~  
15 ~~enable the applicant to evade the intent or spirit of any~~  
16 ~~controlled business, anti-rebate or anti-discrimination law or~~  
17 ~~other law.~~

18 ~~E.]~~ C. The application form shall also require  
19 information as to additional matters expressly required to be  
20 included therein in articles of the Insurance Code relating to  
21 particular licenses.

22 ~~[F.]~~ D. The application shall be accompanied by the  
23 applicable license application filing fee specified in Section  
24 59A-6-1 NMSA 1978 ~~[by bond where expressly required under other~~  
25 ~~provisions of the Insurance Code]~~ and by the fee specified in

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1 such fee schedule for any examination required under the  
2 Insurance Code to be taken and passed by the applicant prior to  
3 licensing.

4 ~~[G.]~~ E. The superintendent ~~[shall]~~ may require a  
5 criminal history background investigation of the applicant for  
6 a license by means of fingerprint checks by the department of  
7 public safety and the federal bureau of investigation.

8 ~~[H.]~~ F. The superintendent ~~[shall]~~ may obtain from  
9 the department of public safety and the federal bureau of  
10 investigation, at the expense of the applicant for a license,  
11 criminal history information concerning each applicant, using  
12 the applicant's fingerprints or other identifying information.  
13 The information shall be used by the superintendent solely in  
14 determining whether to grant the application. "

15 Section 5. Section 59A-11-10 NMSA 1978 (being Laws 1984,  
16 Chapter 127, Section 189, as amended by Laws 1999, Chapter 272,  
17 Section 4 and also by Laws 1999, Chapter 289, Section 5) is  
18 amended to read:

19 "59A-11-10. CONTINUATION, EXPIRATION OF LICENSE. --

20 A. Each license, other than insurance agent, issued  
21 under this article shall continue in force until it is  
22 suspended, revoked or otherwise terminated, but except as may  
23 be provided pursuant to Section 59A-11-11 NMSA 1978, subject to  
24 payment to the superintendent annually on or before April 1, or  
25 December 31 as to motor club representatives, of the applicable

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1 continuation fee specified in Section 59A-6-1 NMSA 1978  
2 accompanied by request for such continuation:

3 (1) for broker, surplus line broker,  
4 independent adjuster, bail bondsman license and similar other  
5 independent licensees, request shall be made and signed by the  
6 licensee;

7 (2) for agent (other than insurance agent) or  
8 staff adjuster, or solicitor license, request shall be made and  
9 signed by the employer or other principal, as applicable; or

10 (3) for vending machine, request shall be made  
11 and signed by the supervisory agent thereof.

12 B. Subject to Section 59A-11-11 NMSA 1978, any  
13 license referred to in Subsection A of this section, not so  
14 continued shall be deemed to have terminated as of midnight on  
15 April 30, or December 31 as to motor club representatives, then  
16 current; except that the superintendent may effectuate a  
17 request for continuation received within thirty days thereafter  
18 if accompanied by annual continuation fee equal to one hundred  
19 fifty percent of the continuation fee otherwise required.

20 ~~[C. An insurance agent's license shall continue in~~  
21 ~~force while there is in effect as to the licensee as shown by~~  
22 ~~the superintendent's records an appointment or appointments as~~  
23 ~~agent of authorized insurers covering collectively all of the~~  
24 ~~kinds of insurance included in the agent's license. Upon~~  
25 ~~termination of all the licensee's agent appointments as to a~~

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1 ~~particular kind of insurance and failure to replace such~~  
2 ~~appointment within sixty days thereafter, the license shall~~  
3 ~~expire and terminate as to such kind of insurance; and the~~  
4 ~~licensee shall promptly deliver the license to the~~  
5 ~~superintendent for reissuance, without fee or charge, as to the~~  
6 ~~kinds of insurance covered by the licensee's remaining agent~~  
7 ~~appointments. Upon termination of all of the licensee's agent~~  
8 ~~appointments under the license, the license shall forthwith~~  
9 ~~terminate.]~~

10 C. Within sixty days of obtaining an agent license,  
11 the licensee shall become appointed by an authorized insurer to  
12 act as its agent; otherwise the license shall expire. A person  
13 shall not act as an agent of an insurer unless the person  
14 becomes appointed as an agent of the insurer. Within fifteen  
15 days from the date an agency contract is executed or the first  
16 insurance application from the person is accepted by the  
17 insurer, the insurer shall file a notice of appointment on a  
18 form approved by the superintendent. The agent or the insurer  
19 may terminate an appointment by notifying the superintendent  
20 and the other party in writing of the termination. If at any  
21 time all of the licensee's appointments have been terminated  
22 for a period of sixty days, the agent's license shall expire.

23 D. If the superintendent has reason to believe that  
24 the competence of any licensee, or individual designated to  
25 exercise license powers, is questionable, the superintendent

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1 may require as condition to continuation of the license or  
2 license powers that the licensee or individual take and pass to  
3 the superintendent's satisfaction a written examination as  
4 required under the Insurance Code of new individual applicants  
5 for similar license.

6 E. This section shall not apply as to temporary  
7 licenses, which shall be for such duration and subject to  
8 extension as provided in the respective sections of the  
9 Insurance Code by which such licenses are authorized.

10 F. All licenses and appointments as to an insurer  
11 or other principal which ceases to be authorized to transact  
12 business in this state shall automatically terminate without  
13 notice as of date of such cessation.

14 G. A license shall also terminate upon death of the  
15 licensee, if an individual, or dissolution if a corporation, or  
16 change in partnership members if a firm; subject, in case of a  
17 firm, to continuation of the license for a reasonable period  
18 while application for new license is being made or pending,  
19 under reasonable conditions provided in regulations of the  
20 superintendent. "

21 Section 6. Section 59A-12-6 NMSA 1978 (being Laws 1984,  
22 Chapter 127, Section 207) is amended to read:

23 "59A-12-6. LICENSE REQUIRED--PENALTY. --

24 A. No person shall in this state be, act as or hold  
25 himself out to be, as to subjects of insurance resident,

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1 located or to be performed in this state or elsewhere, an agent  
2 or solicitor unless then licensed as such under the Insurance  
3 Code.

4 B. No authorized insurer shall accept insurance of  
5 any subject located, resident or to be performed in this state  
6 through any person acting as insurance agent in this state if  
7 the insurer knows, or reasonably should have known, that such  
8 person was not then licensed as an agent as to such insurance  
9 or not appointed as its agent by the insurer.

10 C. No license as agent or broker shall be issued to  
11 any entity other than an individual, firm (partnership) or  
12 corporation.

13 D. No agent or solicitor shall solicit or take an  
14 application for, or place for others, any kind of insurance as  
15 to which not then so licensed.

16 E. No agent shall place any insurance with any  
17 insurer as to which not then licensed or appointed as agent  
18 under the Insurance Code.

19 F. A license as agent or solicitor, or appointment  
20 as agent of a particular insurer, shall not be in effect until  
21 the license has actually been delivered to the agent or  
22 solicitor or to the solicitor's employer agent or the  
23 appointment has been duly filed with and approved by the  
24 superintendent.

25 G. In addition to any applicable denial, suspension

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1 or revocation of license, refusal to continue license, or  
2 administrative fine, violation of this section shall be a  
3 misdemeanor punishable by a fine of from one hundred dollars  
4 (\$100) to five hundred dollars (\$500) and by forfeiture to the  
5 state of New Mexico of an amount equal to all compensation for  
6 services as agent or solicitor received or to be received by  
7 the violator by reason of the prohibited transactions. "

8 Section 7. Section 59A-12-22 NMSA 1978 (being Laws 1984,  
9 Chapter 127, Section 223) is amended to read:

10 "59A-12-22. FIDUCIARY FUNDS--AGENTS, BROKERS, SOLICITORS,  
11 SURPLUS LINE BROKERS, BAIL BONDSMEN, MOTOR CLUB AGENTS AND  
12 OTHERS. --

13 A. All funds of others received by any person  
14 licensed or acting as an insurance agent, broker, solicitor,  
15 surplus line broker, bail bondsman or solicitor, motor club  
16 agent, or agent or solicitor for health care plan, prepaid  
17 dental plan, or in any similar capacity for which licensing of  
18 such person is required under the Insurance Code, are received  
19 and held by such person in a fiduciary capacity. Any such  
20 person who diverts or appropriates such funds to his own use,  
21 or takes or secretes with intent to embezzle, all without  
22 consent of the person entitled to such funds, is guilty of  
23 larceny by embezzlement.

24 B. Subject to the terms of any agreement between  
25 such person or licensee and his principal or obligee, each such

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1 person who does not make immediate remittance of such funds to  
2 the insurer or other person entitled thereto, shall elect and  
3 follow as to funds received for account of a particular insurer  
4 or person either of the following methods:

5 (1) remit received premiums (less applicable  
6 commissions, if any) and return premiums to the insurer or  
7 other person entitled thereto within fifteen [~~(15)~~] days after  
8 such receipt; or

9 (2) establish and maintain in a commercial  
10 bank or other established financial institution depository [~~in~~  
11 ~~this state~~] one or more accounts, separate from accounts  
12 holding general personal, firm or corporate funds, and  
13 forthwith deposit and retain therein pending transmittal to the  
14 insurer or other person entitled thereto, all such premiums  
15 (net of applicable commissions, if any) and return premiums.  
16 Funds belonging to more than one principal may be as deposited  
17 and held in the same such account so long as the amount held  
18 for each such principal is readily ascertainable from the  
19 records of the depositor. The depositor may commingle with  
20 such fiduciary funds in a particular such account such  
21 additional funds as the licensee deems prudent for advancing  
22 premiums, reserves for payment of return commissions, or for  
23 other contingencies arising in the business of receiving and  
24 transmitting premiums or return premiums.

25 C. Such person may commingle with his own funds to

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1 an unlimited amount funds of a particular principal who has in  
2 writing in advance expressly waived the segregation  
3 requirements of Subsection B [~~above~~] of this section.

4 D. Any commingling of funds with funds of any such  
5 person permitted under this section shall not alter the  
6 fiduciary capacity of such person as to funds of others. "

7 Section 8. Section 59A-14-10 NMSA 1978 (being Laws 1984,  
8 Chapter 127, Section 248) is amended to read:

9 "59A-14-10. OFFICE AND RECORDS. --

10 A. A surplus line broker shall maintain [~~in this~~  
11 ~~state~~] an office accessible to the public wherein transactions  
12 under his license may be transacted. Nothing herein shall be  
13 deemed to prohibit maintenance of the office in the surplus  
14 line broker's place of residence, subject to accessibility  
15 above stated.

16 B. The surplus line broker shall keep in the office  
17 complete records of surplus line insurance business transacted,  
18 including, but not limited to, income and disbursements, copies  
19 of all policies, endorsements, cancellations, filing documents,  
20 reports and other related records. The [~~surplus line broker~~  
21 ~~shall not remove the records from this state, and the~~] records  
22 shall be made available for examination by the superintendent  
23 at all times within [~~five (5)~~] seven years after issuance of a  
24 coverage to which the record relates.

25 C. The surplus line broker shall immediately notify

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1 the superintendent in writing of any change of office address.  
2 Failure to notify the superintendent of a change of address  
3 within twenty days shall subject the licensee to a penalty in  
4 the amount of fifty dollars (\$50.00)."

5 Section 9. Section 59A-17-9 NMSA 1978 (being Laws 1984,  
6 Chapter 127, Section 305, as amended) is amended to read:

7 "59A-17-9. FILING OF RATES (OTHER THAN ~~WORKMEN'S~~  
8 WORKERS' COMPENSATION).--As to insurance subject to Chapter  
9 59A, Article 17 NMSA 1978, other than ~~workmen's~~ workers'  
10 compensation insurance, every insurer ~~[or the rate service~~  
11 ~~organization designated by the insurer for filing of rates as~~  
12 ~~provided in Chapter 59A, Article 17 NMSA 1978]~~ shall file with  
13 the superintendent all rates and supplementary rate information  
14 and all changes and amendments thereof made by it for use in  
15 this state at least sixty days before ~~[they become effective]~~  
16 their proposed effective date. No filing made pursuant to this  
17 section shall become effective nor shall it be used until  
18 approved or deemed approved by the superintendent in accordance  
19 with Section 59A-17-13 NMSA 1978, at which time it may be  
20 used. "

21 Section 10. Section 59A-17-17 NMSA 1978 (being Laws 1984,  
22 Chapter 127, Section 313, as amended) is amended to read:

23 "59A-17-17. ~~[DELEGATION OF RATE-MAKING AND RATE-FILING~~  
24 ~~OBLIGATION]~~ USE OF RATE SERVICE ORGANIZATION ADVISORY  
25 FILINGS. --

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1           A. ~~[As to insurance other than workers'~~  
2 ~~compensation]~~ An insurer may itself establish rates and  
3 supplementary rate information for any market segment based on  
4 the factors set forth in Section 59A-17-7 NMSA 1978 or it may  
5 ~~[use rates and]~~ in its rate filing incorporate by reference  
6 loss costs and other supplementary rate information prepared by  
7 a rate service organization, ~~[with average expense factors~~  
8 ~~determined by the rate service organization or]~~ with such  
9 modification for its own ~~[expense and]~~ loss experience as the  
10 credibility of that experience allows.

11           ~~[B. As to insurance other than workers'~~  
12 ~~compensation, an insurer may discharge its obligation for~~  
13 ~~filing of rates as required by Section 59A-17-9 NMSA 1978 by~~  
14 ~~giving notice to the superintendent that it uses rates and~~  
15 ~~supplementary rate information prepared by a designated rate~~  
16 ~~service organization, with such information about modifications~~  
17 ~~thereof as is necessary to fully inform the superintendent.~~  
18 ~~The insurer's rates and supplementary rate information shall be~~  
19 ~~those filed from time to time by the rate service organization,~~  
20 ~~including any amendments thereto as filed, subject, however, to~~  
21 ~~the modifications filed by the insurer. Any such designation~~  
22 ~~of a rate service organization shall be signed by an officer of~~  
23 ~~the insurer.~~

24           C. ~~As to workers' compensation insurance, an~~  
25 ~~insurer may satisfy its obligation to make rate filings under~~

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1 ~~Chapter 59A, Article 17 NMSA 1978 by becoming a member of or a~~  
2 ~~subscriber to a licensed rate service organization that makes~~  
3 ~~such filings and by authorizing the superintendent to accept~~  
4 ~~such filings on its behalf.~~

5 ~~D.]~~ B. Nothing in Chapter 59A, Article 17 NMSA 1978  
6 shall be construed as requiring any insurer to become a member  
7 of or subscriber to any rate service organization.

8 ~~[E. No rate service organization shall file a set~~  
9 ~~of uniform rates applicable to all member insurers where there~~  
10 ~~are substantial variations among the members with regard to~~  
11 ~~loss experience, loss ratios and other factors relating to~~  
12 ~~appropriate rate levels. If substantial variations exist among~~  
13 ~~rate service organization members, separate rates shall be~~  
14 ~~filed applicable to each subgroup of member insurers having~~  
15 ~~similar loss experience, loss ratios and other factors relating~~  
16 ~~to appropriate rate levels. No rate service organization shall~~  
17 ~~require its members to agree with the rate service organization~~  
18 ~~to adhere to the rates filed by such organization.]~~

19 C. The superintendent ~~[shall]~~ may adopt  
20 ~~[regulations within one hundred fifty days after the effective~~  
21 ~~date of this subsection]~~ rules establishing standards and  
22 administrative procedures to carry out the provisions of this  
23 ~~[subsection and shall further adopt regulations providing for~~  
24 ~~alternative methods of rate competition among insurers that~~  
25 ~~will result in rates as fair and reasonable as those that would~~

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1 ~~otherwise be filed under this subsection. Until such~~  
2 ~~regulations are adopted, the provisions of this subsection are~~  
3 ~~self-executing. This subsection does not apply to advisory~~  
4 ~~filings, and any insurer may make such use of advisory filings~~  
5 ~~as the superintendent may deem appropriate in the~~  
6 ~~circumstances] section. "~~

7 Section 11. Section 59A-18-12 NMSA 1978 (being Laws 1984,  
8 Chapter 127, Section 342, as amended) is amended to read:

9 "59A-18-12. FILING OF FORMS AND CLASSIFICATIONS-- REVIEW  
10 OF EFFECT UPON INSURED. --

11 A. ~~[No]~~ An insurance policy or annuity contract  
12 shall not be delivered or issued for delivery in this state,  
13 nor shall any assumption certificate, endorsement, rider or  
14 application that becomes a part of any such policy be used,  
15 until a copy of the form and the classification of risks  
16 pertaining thereto have been filed with the superintendent.  
17 Any such filing shall be made at least sixty days before its  
18 proposed effective date. ~~[No]~~ A filing made pursuant to this  
19 section shall not become effective nor shall it be used until  
20 approved by the superintendent pursuant to Section 59A-18-14  
21 NMSA 1978, at which time it may be used. Provided, that:

22 (1) this subsection shall not apply as to  
23 policies, contracts, endorsements or riders of unique and  
24 special character not for general use or offering but designed  
25 and used solely as to a particular insured or risk; and

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1 (2) if the superintendent has exempted ~~[any]~~ a  
2 person or a class of persons or ~~[any]~~ a market segment from  
3 ~~[any]~~ a part or all of the provisions of the Insurance Rate  
4 Regulation Law pursuant to Subsection C of Section 59A-17-2  
5 NMSA 1978, the superintendent also may exempt by rule that  
6 person, class of persons or market segment from ~~[any]~~ a part or  
7 all of the provisions of this subsection.

8 B. ~~[No]~~ A workers' compensation insurance policy  
9 covering a risk arising from the employment of a worker  
10 performing work for an employer in New Mexico when that  
11 employer is not domiciled in New Mexico shall not be issued or  
12 become effective, nor shall any endorsement or rider covering  
13 such a risk be issued or become effective, until a copy of the  
14 form and the classification of risks pertaining thereto have  
15 been filed with the superintendent.

16 C. Any insured may in writing request the insurer  
17 to review the manner in which its filing has been applied as to  
18 insurance afforded him. If the insurer fails to make ~~[such]~~ a  
19 review and grant appropriate relief within thirty days after  
20 ~~[such]~~ the request is received, the insured may file a written  
21 complaint and request for a hearing with the superintendent,  
22 stating grounds relied upon. If the complaint charges a  
23 violation of the Insurance Code and the superintendent finds  
24 that the complaint was made in good faith and that the insured  
25 would be aggrieved if the violation is proved, he shall hold a

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1 hearing, with notice to the insured and insurer stating the  
2 grounds of complaint. If upon ~~[such]~~ the hearing the  
3 superintendent finds the complaint justified, he shall order  
4 the insurer to correct the matter complained of within a  
5 reasonable time specified but not less than twenty days after a  
6 copy of his order was mailed to or served upon the insurer. "

7 Section 12. Section 59A-22-42 NMSA 1978 (being Laws 2001,  
8 Chapter 14, Section 1) is amended to read:

9 "59A-22-42. COVERAGE FOR PRESCRIPTION CONTRACEPTIVE DRUGS  
10 OR DEVICES. --

11 A. Each individual and group health insurance  
12 policy, health care plan and certificate of health insurance  
13 delivered or issued for delivery in this state ~~[and which~~  
14 ~~offers]~~ that provides a prescription drug benefit shall ~~[offer]~~  
15 provide coverage for prescription contraceptive drugs or  
16 devices approved by the food and drug administration.

17 B. Coverage for food and drug administration-  
18 approved prescription contraceptive drugs or devices may be  
19 subject to deductibles and coinsurance consistent with those  
20 imposed on other benefits under the same policy, plan or  
21 certificate.

22 C. The provisions of this section shall not apply  
23 to short-term travel, accident-only or limited or specified-  
24 disease policies.

25 D. A religious entity purchasing individual or

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1 group health insurance coverage may elect to exclude  
2 prescription contraceptive drugs or devices from the health  
3 coverage purchased. "

4 Section 13. Section 59A-46-44 NMSA 1978 (being Laws 2001,  
5 Chapter 14, Section 3) is amended to read:

6 "59A-46-44. COVERAGE FOR PRESCRIPTION CONTRACEPTIVE DRUGS  
7 OR DEVICES. --

8 A. Each individual and group health maintenance  
9 organization contract delivered or issued for delivery in this  
10 state [~~and which offers~~] that provides a prescription drug  
11 benefit shall [~~offer~~] provide coverage for prescription  
12 contraceptive drugs or devices approved by the food and drug  
13 administration.

14 B. Coverage for food and drug administration-  
15 approved prescription contraceptive drugs or devices may be  
16 subject to deductibles and coinsurance consistent with those  
17 imposed on other benefits under the same contract.

18 C. A religious entity purchasing individual or  
19 group health maintenance organization coverage may elect to  
20 exclude prescription contraceptive drugs or devices from the  
21 health coverage purchased. "

22 Section 14. Section 59A-51-14 NMSA 1978 (being Laws 1984,  
23 Chapter 127, Section 941) is amended to read:

24 "59A-51-14. DENIAL, SUSPENSION, REVOCATION OR REFUSAL TO  
25 CONTINUE LICENSE. --

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1           A. The superintendent may deny, suspend, revoke or  
2 refuse to continue any license issued under [~~this article~~]  
3 Chapter 59A, Article 51 NMSA 1978 for any of the following  
4 causes or for any violation of the laws of this state relating  
5 to bail or the bail bond business:

6                   (1) for any cause for which issuance of the  
7 license could have been refused had it then existed and been  
8 known to the superintendent;

9                   (2) material misstatement, misrepresentation  
10 or fraud in obtaining the license;

11                   (3) misappropriation, conversion or unlawful  
12 withholding of money belonging to insurers or others and  
13 received in the conduct of business under the license;

14                   (4) fraudulent or dishonest practices in the  
15 conduct of business under the license;

16                   (5) [~~wilful~~] willful failure to comply with,  
17 or [~~wilful~~] willful violation of any proper order, rule or  
18 regulation of the superintendent;

19                   (6) failure or refusal, upon demand, to pay  
20 over to any insurer he represented, any money coming into his  
21 hands belonging to the insurer;

22                   (7) [~~wilful~~] willful failure to return  
23 collateral security to the principal when the principal is  
24 entitled thereto;

25                   (8) for knowingly having in his employ a

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1 person whose bail bond business license has been revoked,  
2 suspended or denied in this or any other state; or

3 (9) [~~wilful~~] willful failure, neglect or  
4 refusal to supervise a solicitor's activities in his behalf.

5 B. When, in the judgment of the superintendent, the  
6 licensee in the conduct of affairs under the license has  
7 demonstrated incompetency, untrustworthiness, conduct or  
8 practices rendering him unfit to engage in the bail bond  
9 business, or making his continuance in such business  
10 detrimental to the public interest, or that he is no longer in  
11 good faith engaged in the bail bond business, or that he is  
12 guilty of rebating, or offering to rebate his commissions in  
13 the case of limited surety agents or premiums in the case of  
14 professional bondsmen, and for such reasons is found by the  
15 superintendent to be a source of detriment, injury or loss to  
16 the public, he shall revoke or suspend the license.

17 C. In case of the suspension or revocation of  
18 license of any bail bondsman, the license of any or all other  
19 bail bondsmen who are members of the same agency and any or all  
20 solicitors employed by such agency, who knowingly were parties  
21 to the act [~~which~~] that formed the ground for the suspension or  
22 revocation shall likewise be suspended or revoked, except for  
23 the purpose of completing pending matters, and those persons  
24 who knowingly were parties to the act are prohibited from being  
25 licensed as a member of or bail bondsman or solicitor for some

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1 other agency.

2 D. No license under [~~this article~~] Chapter 59A,  
3 Article 51 NMSA 1978 shall be issued, renewed or permitted to  
4 exist when the same is used directly or indirectly to  
5 circumvent the provisions of [~~this~~] that article.

6 [~~E. The Uniform Licensing Act [61-1-1 to 61-1-31~~  
7 ~~NMSA 1978] shall apply with regard to the procedure for denial,~~  
8 ~~revocation, suspension or refusal to continue a license~~  
9 ~~pursuant to this article.]"~~

10 Section 15. TEMPORARY PROVISION--RECOMPILATION. --Section  
11 59A-2-9.2 NMSA 1978 (being Laws 2000, Chapter 58, Section 1) is  
12 recompiled as Section 59A-16-21.1 NMSA 1978.

13 Section 16. REPEAL. --Sections 59A-14-8 and 59A-18-15 NMSA  
14 1978 (being Laws 1984, Chapter 127, Sections 246 and 345) are  
15 repealed.